

HON'BLE THE CHIEF JUSTICE SRI G.S. SINGHVI
AND
HON'BLE SRI JUSTICE C.V. NAGARJUNA REDDY
Writ Appeal No.1319 of 2004

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Between:

P. Narsaiah

... Appellant

And

The Regional Manager,
APSRTC, Nalgonda

... Respondent

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::JUDGMENT::

Counsel for the appellant : Shri V. Narasimha Goud

Counsel for the respondent : Shri V.S.K. Rama Rao for
Shri V.T.M. Prasad

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June 25, 2007

Per G.S. Singhvi, CJ

This is an appeal for setting aside order dated 23.7.2004 passed by the learned Single Judge, whereby he dismissed the writ petition filed by the appellant for issue of a mandamus to the respondent to absorb him as Conductor in the services of the Andhra Pradesh State Road Transport Corporation (for short, 'the Corporation').

The appellant worked as a Conductor from 1986 to 30th April 1991 in bus No. AAP 648 which was being operated by Sri Racharla Nageswara Rao and others, in the name and style of Sri Venkateswara Swamy Bus Service on Suryapet to Marripeda via Kuda

Kuda route. The said route was nationalised with effect from 1.5.1991. As a consequence of that, the operation of the private bus had to be discontinued. After sometime, the appellant applied for appointment in the service of the Corporation in accordance with the scheme evolved by it for absorption of persons who had earlier worked with those operating bus services on nationalised routes, but his claim was not accepted on the ground that the vehicle was having temporary permit and was not operated continuously for a period of one year prior to nationalisation. He then joined nine others and filed Writ Petition No. 10438 of 1991 for issue of a mandamus to appoint them as Drivers and Conductors. The same was disposed of on 31.10.1991 with a direction to the Corporation to consider the cases of the petitioners for absorption as per their eligibility and suitability subject to the proof of their having worked on the displaced vehicles.

In compliance of the direction given by the Court, the competent authority issued proceedings dated 5.2.1992 and called upon the appellant to produce authentic records like P.F. Accounts, trip sheets, vehicle check reports etc. to prove that they had worked on the displaced vehicles for a period of one year as on the date of nationalisation. The appellant claims to have produced the requisite documents and then filed Writ Petition No. 1312 of 2000 with the complaint that despite the direction given by the Court in Writ Petition No. 10438 of 1991, he had not been absorbed in the services of the Corporation. By an order dated 3.1.2003, the learned Single Judge directed the Corporation to reconsider the appellant's case for absorption as displaced employee. Thereafter, he was interviewed along with his co-petitioner – Shri V. Ramesh Reddy, but their cases were rejected on the ground of non-submission of the relevant documents. This was conveyed to the appellant vide letter dated 15.3.2004 issued by the respondent.

The second rejection of the appellant's case for absorption in the employment of the Corporation led to the filing of Writ Petition No.

11551 of 2004. This time, the learned Single Judge dismissed the writ petition by observing that the documents produced by the appellant were not sufficient to establish his entitlement for absorption in terms of the policy framed by the Corporation. The learned Single Judge noted that the Conductor's licence produced by the appellant was valid from 6.2.2004 to 22.2.2007, but licence for the period during which he is said to have worked as Conductor on the bus of the private operator and the original certificate issued by Assistant Labour Officer, Suryapet containing the details of Conductors and Drivers, who worked on bus No. AAP 648 were not produced. The learned Single Judge also noted that vehicle No. AAP 648 was not in continuous operation for a period of one year prior to nationalisation and held that the petitioner cannot seek absorption in the service of the Corporation.

We have heard learned counsel for the parties and scrutinized the record. It is not in dispute that operation of the private vehicle for a continuous period of one year prior to the date of nationalisation i.e. 1.5.1991 was sine qua non for consideration of the persons employed by operator for absorption as Conductors or Drivers in the service of the Corporation.

While rejecting the appellant's case on three occasions, the respondent had consistently observed that the applicant has failed to adduce evidence to prove that bus No. AAP 648 had, in fact, been operated continuously for a period of one year prior to nationalisation of the route. The learned Single Judge too, after going through the record, confirmed this finding. Learned counsel for the appellant could not draw our attention to any document to show that bus No. AAP 648 had been operated on the nationalised routes for a continuous period of one year prior to 1.5.1991 i.e. the date of nationalisation and that his client held valid licence to work as Conductor during that period. Therefore, the appellant's claim for absorption cannot be entertained and a writ in the nature of mandamus cannot be issued to the respondent to absorb him as Conductor.

We are also in agreement with the learned Single Judge that the appellant's failure to produce the licence for the period during which he is said to have worked as Conductor with the private operator and non-availability of the list prepared by the Assistant Labour Officer justified the rejection of his plea for absorption and at this belated stage, we do not find any valid ground or justification to direct the respondent to reconsider his claim.

In the result, the appeal is dismissed.

G.S. SINGHVI, CJ

June 25, 2007

C.V. NAGARJUNA REDDY, J

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